F.C.C. 76-134

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C. 20554

Docket No. 19528

In the Matter of

PROPOSALS FOR NEW OR REVISED CLASSES OF INTERSTATE AND FOREIGN MESSAGE TOLL TELEPHONE SERVICE (MTS) AND WIDE AREA TELEPHONE SERVICE (WATS)

Memorandum Opinion and Order

(Adopted: February 1, 1976;

Released: February 13, 1976)

BY THE COMMISSION: CHAIRMAN WILEY ISSUING A STATEMENT IN WHICH COMMISSIONERS REID, QUELLO, WASHBURN AND ROBINSON JOIN; COMMISSIONER HOOKS CONCURRING IN THE RESULT.

1. In a First Report and Order herein, released November 7, 1975, 56 F.C.C. 2d 593, the Commission established a registration program designed to allow users of the nationwide telephone network to connect terminal equipment other than PBX's, key telephone systems, main station telephones,[1] and coin telephones to the network without the need for carrier-supplied connecting arrangements, provided they comply with the standards incorporated in the registration program to protect the network from harm. The standards and registration procedures are contained in a new Part 68 of the Commission's Rules.

2. Petitions for reconsideration of various aspects of

[1] A final decision on the Commission's planned inclusion of PBX's, key telephone systems and main station telephones in the registration program will be announced in the near future.

the First Report and Order were filed by the Bell System Companies (Bell), GTE Service Corporation (GTE), Continental Telephone Corporation, Rixon, Inc., Computer and Business Equipment Manufacturers Association (CBEMA), and Exxon Enterprises, Inc. (Exxon). We have also received a "Petition for Amendment of Part 68 of FCC Rules" filed by Communication Certification Laboratory, and comments filed by T.A.D. Avanti, Inc., Gaines M. Crook and Associates, J. P. Neil, Interface Technology, Inc., Guardian Industries, Inc., and Phone Mate, Inc. Oppositions to one or more of the petitions for reconsideration were filed by Bell, GTE, CBEMA, Exxon, IBM, the Central Committee on Telecommunications of the American Petroleum Institute (API), General DataComm Industries, Inc., the Independent Data Communications Manufacturers Association, Inc. (IDCMA), the North American Telephone Association (NATA), and DASA Corporation. Replies have been filed by Bell, GTE, Rixon, CBEMA, and Exxon. Also before us at this time are separate motions to stay filed by Bell and Rixon, and oppositions to these motions to stay filed by NATA, Utilities Telecommunications Council, API, IDCMA, Exxon, and CBEMA. We also have a Memorandum filed by the United States Department of Justice opposing both AT&T's Motion For Stay and AT&T's and GTE's petitions for reconsideration. All of these pleadings and comments will be considered herein.

Petitions for Reconsideration

3. The telephone companies (Bell, GTE, Continental) unanimously request the Commission to reconsider that portion of the First Report and Order which applies the registration program to carrier-supplied equipment. They are joined in this request by Rixon, Inc.—a manufacturer which supplies the independent (non-Bell) telephone industry. They argue, *inter alia*, that carrier-supplied equipment should be exempt from the registration program be-

cause the telephone companies are already subject to pervasive regulation at both the state and Federal levels, no purpose would be served by including carrier-supplied equipment, the registration requirement would impose additional costs on the telephone companies without any benefits, and there is no need to require registration of carrier-supplied equipment in order to obtain any needed information since the Commission is already empowered under Section 218 of the Communications Act to obtain any needed information from the carriers it regulates. None of the arguments raised by the carriers is new—all have been raised in earlier pleadings. In our First Report and Order we concluded that carrier-supplied equipment should be included in the registration program and gave three principal reasons for this conclusion:

(a) Carrier-supplied terminal equipment possesses the same *potential* for harm to the network as does customer-supplied equipment.

(b) The information provided by the carriers in their registration applications will be of considerable aid to the Commission as a benchmark against which other applications may be judged.

(c) When one participant in a competitive market is subject to regulatory constraints while another is not, there exists the possibility of using the registration, notification and complaint standards and procedures for competitive advantage.

In reaching our conclusion that carrier-supplied equipment should be included in the registration program, we considered all the pleadings, comments, and other submissions of the carrier parties as well as other interested parties. The recent restatements (in the petitions for reconsideration) of the same arguments which we have previously considered do not persuade us that our original conclusion was incorrect. We state in our First Report and Order our expectation, in view of the relatively

straightforward nature of the registration requirement, that the program would be relatively inexpensive and easy to implement. Based on representations in GTE's petition for reconsideration, our expectations appear to be borne out. GTE has stated that "the GTE telephone operating companies do not intend to make any registration applications nor do we expect other carriers to be so doing . . . GTE telephone operating companies would attempt to purchase only registered equipment." As has been noted by GTE, individual telephone companies are not required to re-register equipment which has already been registered by the telephone company's manufacturer-suppliers.[2] Thus the expense or inconvenience to individual telephone companies, if any, should be minimal. Furthermore, while it is no doubt true that the carriers and their affiliated equipment manufacturers have a strong interest and incentive in supplying safe equipment, the same can be said of most independent suppliers as well. The paramount concern must be the safety and integrity of the network, not the convenience or financial interests of any private party. Given the wide number of suppliers of many different types of equipment to about 1600 different carriers, it appears that the purposes of preventing harm are best served by registration of all equipment.

4. Both Bell and GTE have objected to the inclusion of extension telephones in the registration program. They complain that no notice was provided that extension telephones would be included in the registration program and that they therefore did not submit comments specifically

---

[2] Since the vertically integrated manufacturers of Continental Telephone Corporation and GTE are currently engaged in the business of selling terminal equipment to the general public as well as to their affiliated telephone companies, we would expect their terminal equipment to be registered in any event. Furthermore, to the extent that Continental and GTE purchase terminal equipment from outside suppliers, they will likely be acquiring registered equipment, since many of their suppliers already sell to the general public.

directed to extension telephones. GTE also argues that there should be no inclusion of extension telephones in the registration program until the economic issues in Docket No. 20003 have been concluded. Bell further points out that since there is no difference between extension telephones and main station telephones, extensions should have been excluded from the registration program for the same reason that main station telephones were excluded. As we stated in our First Report and Order,[3] we will not delay action in this proceeding merely because of the pendency of the broad economic inquiry in Docket No. 20003. In our First Report and Order we found that there is no valid technical distinction between extension telephones and other ancillary devices. Neither Bell nor GTE has disputed this finding, nor have they even alleged that the technical standards adopted in the First Report and Order, are not equally applicable to extension telephones. Thus, we conclude that extension telephones were properly included within the scope of the registration program.

5. The large number of petitions for reconsideration and responsive pleadings filed (see paragraph 2 above) concern nearly every aspect of the registration program. Although we have considered all of the matters raised by these pleadings, we will discuss only those matters concerning rules which we believe need change or clarification at this time. We will cover the matters raised in these pleadings in the order in which they appear in the Part 68 Rules.

6. We note that in its reply to the various oppositions to petitions for reconsideration, filed January 22, 1976, Bell, for the first time, made substantive affirmative comments on and proposals for changes to the technical standards (Subpart D of Part 68 of the Commission's Rules) promulgated in the First Report and Order. In an Order released January 23, 1976 herein, Bell's late-filed proposals were treated as amendments to its earlier-filed

[3] 56 F.C.C. 2d 593, 600 (1975).

petition for reconsideration and were accepted for filing. This Order also granted interested parties an opportunity to file comments on or oppositions to the Bell proposals by February 16, 1976, and allowed Bell to file a reply by February 26, 1976. In view of these late-filed pleadings, certain aspects of the registration program, concerning the technical standards contained in Subpart D of Part 68 of the Commission's Rules, will not be acted on at this time, as is indicated below.

Section 68.2 *Scope*

7. Certain parties have commented that the rules are ambiguous as to which types of terminal equipment are included in the registration program and that the rules should be more specific as to both included and excluded types of terminal equipment. In this respect, we believe the rules are clear that *all* types of terminal equipment are included unless specifically excluded. To help alleviate further confusion, we note that although PBX's and key telephone systems are specifically excluded from the registration program at this time, ancillary equipment connected to such systems is not encompassed within this exclusion.

8. Rixon has commented that MODEMS (datasets) should not be encompassed in the scope of Part 68 on the theory that notice was not given of the inclusion of such equipment. This claim is specious, and we reject it. First, the original Notice of Proposed Rulemaking in Docket No. 19528, 35 F.C.C. 2d 539 (1972) encompassed alternatives to the *Carterfone*-initiated tariff revisions effective January 1, 1969 which revisions specifically included a requirement for a protective coupler for data applications. Second, the Chief Engineer's proposal on which we invited comment in our First Supplemental Notice in Docket No. 19528, 40 F.C.C. 2d 315 (1973) encompassed all terminal equipment, including MODEMS (datasets). Third, the Joint Board's Recommended First Report and Order and

the California P.U.C.'s General Order, both of which included data equipment within their scope, were set for comment, 53 F.C.C. 2d 219 (1975), and our First Report and Order was issued after these comments were analyzed. Finally, the Commission explicitly indicated that consideration of alternatives to the data protective device, the "ADAA" (automatic data access arrangement), was in issue in Docket No. 19528, 42 F.C.C. 2d 647, 651-52 (1973).

9. In footnote 36 of our First Report and Order, we stated that "Part 68 of the Commission's Rules and Regulations is not applicable to terminal equipment connected to the telephone network prior to the effective date of these rules," i.e., April 1, 1976. A number of parties have expressed concern about the applicability of this "grandfather" provision. Bell and Rixon argue that if the rules are to be applied to carrier-supplied equipment, then they should apply only to new models or types of carrier-supplied equipment. There is strenuous opposition to this proposal on the grounds that this approach would effectively eliminate carrier participation in the program for years to come. Questions have also been raised as to the effect of disconnection of "grandfathered" non-registered equipment after April 1, 1976, and whether such equipment would have to be registered before being reconnected. GTE complains that the "grandfather" provision does not cover the use of inventories of unregistered terminal equipment. Therefore, GTE suggests that the "grandfather" provision be expanded to include equipment in telephone company inventory. GTE's request is supported by both General DataCom and IDCMA.

10. We have given careful consideration to these arguments, and have concluded therefrom that Section 68.2 should be amended. The basic purpose of this Section is to afford proper recognition to the millions of items of terminal equipment—produced by both carrier-affiliated and independent manufacturers—which are now and have been directly connected to the network with no evidence of

having caused harm thereto, by granting them immunity from the registration requirements. We agree with GTE that this immunity should be extended to include inventory items of equipment now afforded direct connection privileges—including independently-manufactured equipment —and shall so order. We also believe it reasonable to assume, at least for the relatively uncomplicated single-circuit devices presently covered by this program, that the basic design and manufacturing standards employed for presently-connected devices are adequate to protect the network from harm. Accordingly, while we find it necessary that future production runs of such devices be registered—in order that appropriate corrective actions (e.g., de-registration, recall, or other procedures) may be taken in the event that design or manufacturing standards are allowed to fall—we believe the initial registration procedures for these types of devices can be greatly simplified. Finally, we recognize the need to afford some period of transition following the effective date of our rules, during which the various suppliers may bring their equipment into compliance, secure registration, and dispose of existing inventories in a reasonable manner. We anticipate that most inventories should be exhausted by January 1, 1977, and shall therefore defer until such date the time by which all new equipment directly connected to the network *must* be registered. The effective date of the rules, after which properly registered equipment *may* be directly connected, will be deferred until May 1, 1976 to provide adequate time for further consideration of the technical standards of Part 68 (See paragraph 31 below).[4]

11. Therefore, our approach is summarized as follows:

(a) All items of equipment connected to the network as of the effective date of the rules (now May 1,

---

[4] **In addition to the changes adopted herein, we intend to closely monitor this program as it evolves and to make further adjustments as necessary and appropriate to ease any undue administrative burdens on the parties or the Commission.**

1976—see paragraph 31 below) may continue to be so connected without registration for the life of the equipment, unless subsequently modified.

(b) All items of equipment of a type directly connected to the network as of May 1, 1976 may be connected thereafter until January 1, 1977. After that date such equipment may be connected only if properly registered. However, in order to minimize the burden of registration for this category of equipment we will provide for a short form registration. In essence, this will consist of providing the identification type of information contained on the first page of Form 730 plus certification that the equipment has been directly connected to the network and meets the standards of Part 68. Detailed information and test results need not be submitted unless specifically requested by the Commission.

(c) All items of equipment of a type *not* directly connected to the network on May 1, 1976 may thereafter be directly connected upon grant of registration by the Commission. As an option, such equipment may also be connected pursuant to a continuation of present tariff provisions until January 1, 1977.[5]

In general, we believe these changes will largely satisfy the objections raised and will minimize the impact of our registration program on all segments of the industry, while fully satisfying the basic requirements for network protection.

---

[5] Carriers will be required to modify their tariffs so as to provide for interconnection pursuant to the registration program on May 1 and thereafter. Also, the tariffs shall specify that unregistered equipment may be connected between May 1, 1976 and January 1, 1977 pursuant to tariff provisions in effect prior to May 1, 1976.

12. One matter raised in Bell's January 22, 1976 filing deserves comment at this time. Bell argues therein that the scope of Part 68 should exclude data terminal equipment and protective devices pending the resolution of Docket No. 19419, and cites our language in the First Report and Order concerning our maintenance of the *status quo* in support. This position misconstrues our intent as expressed in paragraph 39 of the Order. We indicated therein that we are establishing rules for limiting signal power which achieve the same technical result as the present data access arrangements, without prejudging the necessity for this technical result, pending the outcome of Docket No. 19419. It is only in that sense that we spoke of maintaining the *status quo*. We recognize that the present data access arrangements and telephone company-provided data terminal devices (datasets) do not employ a programmable data plug, and, rather, use wiring or adjustment by telephone company personnel at the time of installation to achieve the same technical result of signal power limiting as is established by our rules. In order to minimize discontinuity in the provision of data service in the interim period during which the new programmable jack/plug design is being arrived at, and during an additional time period which will be necessary to start production of the programmable jacks and plugs, and equipment and circuitry to be used therewith, we are establishing an alternative in addition to the procedures of Part 68 applicable to data equipment which will have the effect of continuing the presently-effective tariff provisions relating to data equipment. Until design of a programmable jack and plug is arrived at by the cooperative action discussed in paragraph 13, *infra.*, or a design is precribed by the Commission, and for six months thereafter: (1) unregistered customer-provided data equipment may continue to be directly connected with the telephone network through a telephone company-provided data access arrangement, which data access arrangement need not comply with Sections 68.104 and 68.308(b)(2); and (2) telephone company-

provided data terminal equipment need not comply with Sections 68.104 and 68.308(b)(2).

Section 68.104 *Standard Plugs and Jacks*

13. Numerous parties have commented in a variety of ways on the standard plug and jack requirement. Some parties have suggested different types of special arrangements which they feel may be a desirable alternative to standard plugs and jacks in certain situations. GTE has suggested that carrier-supplied equipment be exempt from this requirement. A Public Notice was released on January 21, 1976 (Mimeo No. 60105) scheduling a series of informal industry meetings on contemplated uniform national standards for plugs and jacks to be used in conjunction with registered terminal equipment. While we affirm the basic policies set out in Section 68.104 and paragraph 49 of the First Report and Order, we will not make any changes to Section 68.104 at this time, because of the pendency of these meetings which began on February 9, 1976. In a later Order, we will make such changes as are appropriate to reflect the agreements which we expect will be voluntarily arrived at by cooperative action between the carriers and the terminal equipment industry.[6]

Section 68.106 *Notification to Telephone Company*

14. Because of ambiguities in its original wording, we are modifying this section to make clear that a customer must, before connecting any terminal equipment, notify the telephone company of *each line* to which connection is to be made. Thus if a customer plans to use portable terminal equipment, he may give a "blanket" one-time notification for a number of different lines. It is not necessary for a customer to renotify the telephone company each time the same piece of equipment is disconnected

---

[6] See paragraph 49 of our First Report and Order, *supra* at 611.

and reconnected.[7] Furthermore, once notice has been given, it is not necessary to await the telephone company's response before making the connection.

15. Exxon, which markets portable facsimile transceiver terminals, has requested that any terminal equipment with a Ringer Equivalence Number less than .01 (or some other very small number) be exempted from the notification requirement. Exxon asserts that since the Ringer Equivalence Number would effectively be zero, there would be no necessity for telephone repair or maintenance personnel to handle a "pretrip" or "false trip" problem resulting from use of such equipment. Exxon appears to be particularly concerned that the portability of its equipment would be impaired unless its suggested exemption is adopted. We believe that with the clarifications set out in the previous paragraph, the exemption for portable terminal equipment with a low Ringer Equivalence Number is unnecessary. Should operating experience indicate the desirability of exempting any class of terminal equipment from this notification requirement, we would entertain an appropriate petition for amendment of this rule.

16. GTE points out that in paragraph 50 of the First Report and Order, the Commission stated that the notification requirement would, among other things, "enable the telephone companies to have at their disposal certain statistical information regarding interconnection (which may at a future date be required to be furnished this Commission)." 56 F.C.C. 2d 593, 611 (1975). GTE complains that, "until the FCC gives a more specific indication of its information desires, GTE cannot begin to . . . comply with the Commission's directive." GTE has completely misunderstood the Commission's intentions. We wish to make

---

[7] However, once a piece of equipment is permanently disconnected, i.e., with no intention of reconnecting it, notice of disconnection should be made.

clear that, with respect to the collection of statistical information, we are imposing no obligations on telephone companies at this time and no action by telephone companies is presently required.

17. Bell has proposed that a new section be added which requires customers to notify the grantee that the customer has acquired terminal equipment manufactured (or assembled, etc.) by the grantee. We believe that this proposal is consistent with good business practice and we encourage manufacturers to take all steps necessary to keep accurate records of the purchasers of its equipment. However, at this time, we are not convinced that it is necessary for us to impose this as a requirement for registration.

Section 68.200 *Application for Equipment Registration*

18. Part 68 of the Commission's Rules requires that three types of filings be made with the FCC: original applications, modification applications, and notice filings. All such filings shall be made on FCC Form 730,* and at the top of the form a caption will appear indicating whether the filing is an original application, a modification application, or a notice filing. An original application for equipment registration shall be filed when the equipment has not been the subject of previous FCC registration. If previously registered equipment is changed in a manner which affects compliance with the requirements of Subpart D of Part 68 of the Commission's rules, a modification application shall be filed. Such an application should contain information necessary to associate it with the original application (e.g., registration number, name, etc.) and only such technical information as is changed. If previously registered equipment is changed in a manner which does not affect compliance with the requirements of Sub-

* It is expected that, following approval by the General Accounting Office, FCC Form 730 will be available in April 1976. Prior to the availability of this form, no applications will be accepted for filing.

part D of Part 68 of the Commission's rules, a notice filing shall be made (see Section 68.214 of the Commission's rules). Such a filing should contain information necessary to associate it with the original application (e.g., registration number, name, etc.) and only such information as is changed. A notice filing will be associated with the Commission's records on the outstanding grant authorization. No Commission approval of a notice filing is required (although the Commission reserves the right to request further information of the grantee of the outstanding registration or to bring a complaint on its own motion, based on the contents of a notice filing). All applications and notice filings will be available for public inspection. Section 68.200 is being expanded and clarified to set out all relevant application procedures. It is also modified to provide for the short form filing as discussed in paragraph 11 above.

Section 68.202 *Public Notice*

19. Bell has suggested that, in addition to maintaining lists of equipment for which registration has been granted, the Commission should also maintain lists of equipment for which it has revoked registration. We agree and will modify Section 68.202 accordingly.

Section 68.204 *Comments and Replies*

20. An addition is being made to Section 68.204 to indicate that an original and three copies of all comments and replies are to be filed.

Section 68.206 *Grant of Application*

21. CBEMA has proposed that this section be amended to provide that an application will be deemed granted unless it is denied within 30 days from its filing or unless additional information is requested within 30 days of its filing. This proposal is supported by Exxon and opposed by GTE. We can understand CBEMA's concern that there

be no unnecessary delay in processing applications for registration, however we do not believe the public interest would be served by an automatic grant by default. We must therefore deny CBEMA's request. However, recognizing the problems which could be posed to industry by undue delays and the desire to plan production schedules, we commit ourselves to make every effort to process applications within 30 days of their receipt. However, at the start of the program some additional delays may occur because of the expected large volume of filings and normal start-up experience.

Section 68.210 *Denial of Application*

22. Bell has proposed an addition to this rule which would allow an application to be denied based solely on a showing that the device would be harmful. This change is unnecessary and Bell's request will be denied. The rules and regulations in Part 68 have been carefully drawn to encompass all the necessary standards to protect the network from harm. Denials will be based on non-compliance with these rules. If Bell, for any reason, believes this is not adequate, then its correct remedy is a petition to amend the rules, not the filing of oppositions to applications for registration.

Section 68.218 *Responsibility of Grantee of Equipment Registration*

23. This rule has been substantially enlarged to make clear all the responsibilities of grantees of equipment registration. Many of these additions were proposed by Bell and no one has opposed these proposals. Basically, these additions require the grantee to maintain records containing the information supplied to it in accordance with Section 68.108, and require the grantee to provide certain instructions to the users of its equipment. These additions are consistent with good business practice and will benefit the general telephone-using public.

Section 68.300 *Labelling Requirements*

24. GTE has proposed that the following statement be added to the label: "This is an FCC registered device. Due to differences in some local telephone company facilities, this unit may not function properly with your telephone service." Bell has proposed that the Registration and Ringer Equivalence numbers be combined into one number. These suggestions made by Bell and GTE would be both inappropriate and misleading to the user, and will not be adopted. However, we will adopt Bell's suggested change to Section 68.300(b)(3). We agree that a manufacturer's date stamp scheme could be used as an equally valid alternative to affixing a serial number to all registered equipment.

Subpart D *Technical Standards*

25. As was indicated in our First Report and Order, paragraphs 21 through 48 thereof, our technical specifications were drawn, primarily, from recommendations in the course of this proceeding and AT&T's course-of-conduct under the tariff revisions effective January 1, 1969 and subsequent changes thereto. We have received numerous comments on the technical standards (contained primarily in Subpart D of Part 68 of the Rules), including constructive and positive recommendations for specific changes. On January 22, 1976, Bell filed extensive and comprehensive recommendations for changes to our technical requirements, predicated upon the efforts of "a team of network and Bell Telephone Laboratories experts" who have "been dedicated since the issuance of the Order to a detailed, constructive analysis of the Rules."[9] Many of the recommendations contained in the January 22, 1976 filing impose less stringent requirements than are presently contained in Part 68. As noted in paragraph 6 above,

---

[9] Letter from James R. Billingsley, Vice President of AT&T to Chairman Richard E. Wiley dated January 8, 1976, page 2.

these late-filed proposals were treated as amendments to Bell's earlier-filed petition for reconsideration and interest parties were granted an opportunity to comment on these proposals. In view of these late-filed pleadings, we feel that it would be inappropriate to modify the present technical requirements in Part 68 until we have received comments on Bell's January 22, 1976 filing. By following this procedure we believe the least restrictive specifications, consistent with our goal of protecting the telephone network from "harm," will emerge. We emphasize, however, that this late-date filing by Bell, which certainly could have been and should have been forthcoming during the 3½ years of Docket No. 19528 proceedings, will not be permitted to delay implementation of the registration program. An order reconsidering the technical standards will be issued shortly after all comments have been received.

26. GTE comments that our technical requirements are inadequate with regard to network control signaling and recommends that Part 68 be revised to add criteria and tests for each of off-hook DC resistance, dial speed and pulse ratio, and dual tone multi-frequency signals. We are declining to do so for the reasons stated in our First Report and Order, paragraph 22 thereof.

Petitions For Stay

27. Petitions for stay have been filed by both Bell and Rixon. In its petition, Bell argues that the requirements of the rules are "inappropriate," and unless modified, "full compliance by the telephone companies will be impossible unless a delay in the April 1, 1976 effective date is granted." Bell further states that full compliance will cost the Bell operating telephone companies over $200 million in the first year alone.[10] Lastly, Bell states that in order to prevent

[10] If PBX's, key systems, and main station telephones are included under the rules, Bell states these costs would rise to $350 million.

the unnecessary expenditure of effort and resources to attempt to comply with rules which may never be implemented in their present form, the Commission should stay the effective date of the rules "for at least 90 days after the Commission's action on the pending petitions for reconsideration or after the decision rendered by a court on appeal from such action by the Commission."

28. Rixon requests that the Commission stay the April 1, 1976 effective date "*only* as the date applies to the registration of carrier-provided equipment, until twelve calendar months after the Commission's decision on reconsideration. . . ." Rixon based its request on its need for an extended period to redesign its equipment to meet the FCC's technical standards; the possibility that the technical standards may change in response to future carrier analyses of them; and the inadvisability of including carrier equipment in the Registration Program on any basis.

29. Some parties opposing these petitions argue that any stay in the effective date of the registration program would be a further unnecessary delay in a program which is already long overdue. Other parties would not object to a short postponement not to exceed 90 days following final action on the petitions for reconsideration. In the words of the U.S. Department of Justice, "[t]he clear intent of these Petitions is to delay and undermine the effective implementation of the Registration Program. . . ."

30. It is well settled that in seeking a stay, the petitioner must satisfy the following four criteria:

> (1) Has the petitioner made a strong showing that it is likely to prevail on the merits of its appeal; (2) has the petitioner shown that without such relief it will be irreparably injured; (3) would the issuance of a stay substantially harm other parties interested in the proceeding; and (4) where lies the public interest? *Virginia Petroleum Jobbers Association* v. *Federal Power Commission*, 259 F. 2d 921 (D.C. Cir. 1958).

Neither Bell nor Rixon have directly addressed these four criteria. With respect to the likelihood of prevailing on the merits, neither Bell nor Rixon have indicated that they intend to appeal. In fact, Bell even concedes that "the registration program may be upheld and ultimately implemented." Since we are acting on the many petitions for reconsideration herein, and expect to take final action on the technical standards within one month, there is no need for a stay pending final Commission action. Bell's only statement regarding injury is its allegation, unsupported either by affidavit or explanation, that it would be required to expend some $200 million in order to fully comply with the rules. We do not believe that an unsupported estimate of cost by a party which has consistently opposed any registration program provides an adequate basis for further delay.

31. Because of the many changes in the Part 68 rules which are being made today and which will be made within the next month (on technical standards), we will delay the effective date of the rules until May 1, 1976. We believe that this postponement, together with the changes discussed and outlined in paragraphs 10 and 11, will obviate any need for additional delay in the effective date of the registration program. Together these changes will effectively postpone the implementation of the registration program for several months, and will minimize the impact of the program. Accordingly, a one month postponement in the effective date will be granted.

32. We have also used this opportunity to make a number of procedural changes and clarifications to the rules which we believe require no comment. At a later date some further clarifications and rule organization may be accomplished.

Order

33. In view of the foregoing, It Is Ordered, That the petitions for reconsideration listed in paragraph 2 above, are

GRANTED to the extent indicated herein and are DENIED in all other respects.

34. Pursuant to Sections 4(i), 4(j), 201-205, 208, 215, 218, 313, 314, 403, 404, 410 and 602 of the Communications Act, IT IS FURTHER ORDERED, That Part 68 of the Commission's Rules and Regulations is amended as shown in the appendix hereto effective May 1, 1976.

35. IT IS FURTHER ORDERED, That the petitions for stay filed by the Bell System Companies and Rixon, Inc., are GRANTED to the extent indicated herein and are DENIED in all other respects.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS, *Secretary.*

APPENDIX

The Commission's Rules and Regulations (Chapter I of Title 47 of the Code of Federal Regulations) are amended as follows:

Section 68.2 is amended as follows:

Section 68.2 *Scope*

(a) Except as provided for in paragraph (b), the rules and regulations in this Part apply to the direct connection after May 1, 1976 of all terminal equipment other than coin telephones to the telephone network, for use in conjunction with all services other than party line service. *Note:* Pending further proceedings, the rules and regulations in this Part do not apply to PBX's, key telephone systems, or main station telephones.

(b) Unless otherwise ordered by the Commission, all items of equipment of a type directly connected to the network as of May 1, 1976 may be connected thereafter up to January 1, 1977—and may remain connected for life—without registration, unless subsequently modified.

Section 68.106 is amended as follows:

Section 68.106 *Notification to Telephone Company*

Customers connecting terminal equipment to the telephone network shall, before such connection is made, give notice to the telephone company of the particular line(s) to which such connection is to be made and shall provide to the telephone company the F.C.C. Registration Number and the Ringer Equivalence Number of the registered terminal equipment or registered protective circuitry.

Section 68.200 is amended as follows:

Section 68.200 *Application for Equipment Registration*

An original and two copies of an application for registration of terminal equipment and protective circuitry shall be submitted on FCC Form 730 to the Federal Communications Commission, Washington, D.C. 20554. An application for original approval of an equipment type directly connected to the network on May 1, 1976 may be submitted as a short form application (unless the Commission specifically requests the filing of complete information). All other applications shall have all questions on the form answered and include the following information:

(a) Identification, technical description and purpose of the equipment for which registration is sought.

(b) The means, if any, employed to limit signal power into interface.

(c) A description of all circuitry employed in assuring compliance with Part 68 including the following:

(1) Specifications, including voltage or current ratings, of all circuit elements, whether active or passive, in that part of the device which provides the isolation means at the interface.

(2) A circuit diagram containing the complete circuit of that part of the device which provides

the isolation means at the interface. If this portion of the device is subject to factory or field adjustment by the manufacturer's service agency, instructions for these adjustments shall be included. In addition, if the device is designed to operate from power supplied by electric utility lines, the circuit diagram shall also include that portion of the device connected to such lines, including the power supply to the internal circuits and whatever means are employed to isolate such utility lines from the internal circuits.

(3) If a service manual is submitted, and any of these items are covered therein, it will be sufficient to list the pages in the manual on which the information specified in the item(s) appear.

(d) The data required by Part 68 showing that the device complies with the test specifications and technical limitations described in Section 68.302 thru Section 68.314 inclusive. The Office of Chief Engineer may issue an OCE Bulletin describing acceptable test methods. Other test methods may be employed provided they are fully described in the report and found acceptable by the Commission.

(e) A photograph, sample, or drawing of the equipment label showing the information to be placed thereon.

(f) Photographs, 8" x 10" of the equipment of sufficient clarity to reveal equipment construction and layout and labels for controls, with sufficient views of the internal construction to define component placement and chassis assembly. Photographs smaller than 8" x 10" will be acceptable if mounted on paper 8" x 10" and of sufficient clarity for the purpose. Insofar as these requirements are met by photographs or drawings contained in service manual or instruction manual included with the application, additional pho-

tographs are required only to complete the requir showing.

(g) If the device covered by the application is designed to operate in conjunction with other terminal devices, to couple their signals from or to the interface, the application shall list the class(es) of such other devices, together with their pertinent specification details.

Section 68.202, par. (b) is amended as follows:

Section 68.202 *Public Notice*

• • • • • •

(b) The Commission will maintain lists of equipment for which it has granted registration and for which it has revoked registration.

Section 68.204 is amended as follows:

Section 68.204 *Comments and Replies*

Comments may be filed as to any application for equipment registration within 20 days of the date of the public notice of its filing. Replies to such comments may be filed within 10 days of the date of filing of such comments. All comments must be served on the applicant and all replies must be served on all parties filing comments. An original and three copies of all comments and replies must be filed.

Section 68.208, headnote and par. (a) are amended as follows:

Section 68.208 *Dismissal and Return of Application*

(a) An application which is not filed in accordance with the requirements of this Part or which is defective with respect to completeness of answers to questions, execution or other matters of a formal character, may not be accepted for filing by the Commission and may be returned as unacceptable for filing unless accompanied by a fully supported request for waiver.

• • • • • •

Section 68.218 is amended as follows:

Section 68.218 *Responsibility of Grantee of Equipment Registration*

(a) In applying for a grant of an equipment registration, the grantee warrants that each unit of equipment marketed under such grant will comply with all the applicable rules and regulations in Subpart D of this Part.

(b) The grantee or its agent shall provide to the user of the registered equipment the following:

(1) Instructions concerning installation, operational and repair procedures, where applicable.

(2) Instructions that registered terminal equipment or protective circuitry may not be used with party lines or coin lines.

(3) Instructions that when trouble is experienced the customer shall disconnect the registered equipment from the telephone line to determine if the registered equipment is malfunctioning and that if the registered equipment is determined to be malfunctioning, the use of such equipment shall be discontinued until the problem has been corrected.

(4) Instructions that the user must give notice to the telephone company in accordance with the requirements of Section 68.106.

(c) When registration is revoked for any item of equipment, the grantee is responsible to take all reasonable steps to ensure that purchasers and users of such equipment are notified of such revocation and are notified to discontinue use of such equipment.

A new Section 68.220 is added as follows:

Section 68.220 *Cross Reference*

Applications for registration of terminal equipment shall, in addition to the requirements of this Subpart, comply with the provisions of Subpart L of Part 2 of this Chapter.

Section 68.300, par. (b)(3) is amended as follows:

Section 68.300 *Labelling Requirements*

• • • • • •

(b) (3) Serial number or date of manufacture.

A new Subpart L of Part 2 is added to read as follows:

Subpart L—Registration of Telephone Terminal Equipment

Registration Procedure

Section 2.1300 *Cross Reference*

The general provisions of this part, §§ 2.909, 2.923, 2.927, 2.929, 2.934, 2.935, and 2.936 shall apply to applications for and grants of registration for telephone terminal equipment pursuant to Part 68 of this Chapter.

Section 2.1302 *Application for Registration Under Part 68*

An original application for registration and two copies shall be filed on FCC Form 730 by the party who will be responsible for the conformance of the equipment with the standards specified in Part 68 and shall include the information specified by the form and in Section 68.200 of this Chapter.

STATEMENT OF CHAIRMAN RICHARD E. WILEY

In which Commissioners Reid, Washburn, Quello and Robinson join

The Commission is confronted here with the difficult task of assuring that the benefits of full and fair competition will flow to the public, while minimizing to the greatest

extent possible the intrusion of bureaucracy into the marketplace. I am convinced that both these objectives can best be realized by the approach we have followed in this proceeding.

The necessity of a terminal interconnection program under FCC auspices is directly attributable to the carrier's failure to develop standards and procedures which would provide adequate protection against any harms to the switched telephone network from customer-supplied terminals. My hope and expectation is that an industry consensus can yet be reached which will permit "a withering away" or elimination of this regulatory program. Regrettably, the record reflects that such industry consensus is unlikely unless all participants in the terminal marketplace fall within the regulatory ambit. AT&T's proposal for an industry-derived protective module only came after the Joint Board's Recommended Decision to create a registration program. Similarly, AT&T's Technical Standards Proposal only came after the inclusion of carrier-supplied equipment within this registration program. Indeed, business realities suggest that if just non-carrier suppliers are required to register their equipment, there may be no incentive for constructive cooperation from carriers and their suppliers.

I remain hopeful that industry-wide agreements can be reached which will reduce or eliminate the need for FCC involvement, and more importantly, assure the unimpeded availability of the maximum communications options for the American public. The transitional period [illegible] all suppliers in today's decision, in addition to [illegible] tributes, provides a further opportunity for [illegible] and desirable industry-initiated solutions.